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EXAMINER

BRIER, JEFFERY A

ART UNIT	PAPER NUMBER
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2672

DATE MAILED: 10/29/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/973,622

Applicant(s)

BARNES ET AL.

Examiner

Jeffery A. Brier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-51 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7&8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 82, see figure 3. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 122, see page 22 line 11. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 1-3, 5, 7-9, 16, 21, 23, 24, 26, 28-30, 38, 41-43, 48 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by the article describing the Rocky Mountain Monument & Vault's monument design software described in the article Funeral Home Online--Funeral Home Goes High Tech from the Utah Prime Time July 2000 this article was found at <http://www.funeralplan.com/products/fa.html> and at http://www.auroracasket.com/WEB/news_faqs/press_releases/newsoftware.html

This article describes a headstone design software that allow the user to design a headstone by pulling together designs, choosing from thousands of images, selecting fonts for the text and even adding a signature. See paragraphs 15-21.

A detailed analysis of the claims follows.

Claim 1:

The article describes a computer implemented method (see paragraphs 15-21) for guiding a funeral planning session (the selection of the headstone's design is one step in the process for guiding a funeral, the whole article is dedicated to describing the software used to plan a funeral session), comprising:

displaying a base image of a funeral item (*during the headstone design session the user would inherently view many headstones, see paragraph 15, and choose one, the chosen one is the base image*);

superimposing an overlay image (*the text and images selected by the user are the overlay image*) of a correlated item (*the text and images wished by the user to have placed on the headstone are correlated items*) over the base image (see paragraph 16, *a laser copy of the headstone is generated and given to the family which is now a*

composite image of the base headstone with the computer processed text and images selected by the family) in response to a user selecting the correlated item in such a manner as to form a composite image (inherently the system will display the composite image not only on the laser copy but on the computer monitor since paragraph 15 states the virtual showroom is on the computer which means it is presented to the user via a monitor).

Claim 2:

The article describes the method according to claim 1, further comprising storing image data selected from a group consisting of:

the base image (to create the virtual showroom the base image has to be stored),

the overlay image (In paragraph 18 an image is scanned into the computer, the process of scanning has input image data in the computer which has to be stored for it to be available for use by the computer) and

the composite image (during the process of merging the headstone with the selected text and images provided by the family the computer must store the composited image),

and some combination (this term is interpreted to mean at least one of the base image, overlay image, and composite image), thereof, within a database (According to

yourdictionary.com the term database means: A collection of data arranged for ease and speed of search and retrieval. Also called data bank. The computer used at the

funeral home described in this article would definitely have the virtual showroom headstone images stored in a database and would definitely store the customer's

information in a database since the design session and printing of the laser copy are at

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the funeral home and the manufacture of the headstone is at a factory. The funeral home's computer would have to send the customer's file to the factory which would definitely store the file in a database connected to the computer plotter).

Claim 3:

The article describes the article describes the method according to claim 2, further comprising retrieving the image data from the database (*as described above the base image is stored in a database and it would be retrieved from the database during the virtual headstone showroom tour, during the headstone design session the designed headstone would be stored and then retrieved and transmitted to the factory to have the headstone manufactured, during the printing process of the laser copy to be given to the family the database storing the composite image would accessed to retrieve the composite image).*

Claim 5:

For the reasons given for claims 2 and 3 the database is resident at a local computer at the funeral home.

Claim 7:

A user interface is inherent in the article's teaching because a save option during the design of the headstone is inherent. Also to add or delete headstones from the showroom tour would be inherent.

Claims 8 and 9:

The saved image is an image of the headstone.

Claim 16:

The saved image of the headstones used in the showroom store are photographs.

Claim 20:

Prompting the user to input during the planning session is inherent in the article's teaching since the user selects a headstone and to do must have some sort of prompt provided by the computer in order to enter the selection.

Claim 21:

Paragraph 19 describes adding text and pictures to the overlay.

Claim 23:

The article describes an apparatus, comprising:
a memory (*the computer performing the software design of the headstone has to have a memory*);
a database resident in the memory (*to perform the virtual showroom tour a database is present in memory*),
the database storing images associated with a plurality of funeral products (*a plurality of headstones is a plurality of funeral products*);
and a program configured to access the database (*to retrieve the image of the headstone the database is accessed*) and retrieve a base image associated with one of the plurality of funeral items (*one of the headstones is one of the funeral items*), display the base image (*during the virtual showroom tour the base image is displayed to the family*), and superimpose an overlay image of a correlated item of the plurality of funeral items over the base image in such a manner as to form a composite image (see

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paragraph 16, a laser copy of the headstone is generated and given to the family which is now a composite image of the base headstone with the computer processed text and images selected by the family, inherently the system will display the composite image not only on the laser copy but on the computer monitor since paragraph 15 states the virtual showroom is on the computer which means it is presented to the user via a monitor).

Claim 24:

See claim 2.

Claim 26:

See claim 5.

Claim 28:

See claim 7.

Claims 29 and 30:

See claims 8 and 9.

Claim 38:

The headstone, claimed correlated funeral item, is associated with the overlay image by the software when the selected headstone is selected for overlay by the chosen overlay image.

Claim 41:

See claim 20.

Claim 42:

See claim 21.

Claim 43:

See claim 16.

Claim 48:

The article teaches a program product (*the design software is computer software which requires a program product to operate, thus inherent*), comprising:
a program configured to access a database (*to retrieve the image of the headstone the database is accessed*) storing images associated with a plurality of funeral products (*a plurality of headstones is a plurality of funeral products*) and retrieve a base image associated with one of the plurality of funeral items (*one of the headstones is one of the funeral items*), display the base image (*during the virtual showroom tour the base image is displayed to the family*), and superimpose an overlay image of a correlated item of the plurality of funeral items over the base image in such a manner as to form a composite image(*see paragraph 16, a laser copy of the headstone is generated and given to the family which is now a composite image of the base headstone with the computer processed text and images selected by the family, inherently the system will display the composite image not only on the laser copy but on the computer monitor since paragraph 15 states the virtual showroom is on the computer which means it is presented to the user via a monitor*); and a signal bearing medium bearing the program (*the computer used to perform the virtual headstone tour, to design the overlay image, and to superimpose the headstone with the overlay image inherently has a program which is inherently stored in a memory which is a signal bearing medium and the memory sends the program to the computer's processor via a signal bearing medium*).

Claim 49:

As discussed above the computer used to perform the virtual headstone tour, to design the overlay image, and to superimpose the headstone with the overlay image inherently has a program which is inherently stored in a memory which is a signal bearing medium and the memory sends the program to the computer's processor via a signal bearing medium. The memory is a recordable medium since to have the program in memory the memory was recordable.

5. Claims 22, 45-47, 50 and 51 are rejected under 35 U.S.C. 102(e) as being anticipated by Barrot et al., U.S. Patent Application Publication No. 2002/00464046. Barrot describes at page 4 paragraphs 0054-0057 a computer that is either standalone or networked to perform funeral advising and allows the user to select various funeral products for inclusion in the funeral and allows the user to view images of each of the funeral products.

A detailed analysis of the claims follows.

Claim 22:

Barrot teaches a method of selecting a funerary product (*the user views many funeral products and selects products the user wishes to include in the funeral, page 4 paragraphs 0054-0057*) from a local computer (*paragraph 0054*) networked to a remote server (*paragraphs 0054, 0057 and 0063*), the local computer having a database

(paragraph 0063 and browser stores images in a cache database) that maintains at least one image associated with at least one of a plurality of funeral items *(paragraphs 0138-0150 and figures 15-20)*, comprising:
retrieving the image from the database in response to a request from the remote server *(figures 15-20 illustrate graphically the various database images and video that is retrieved in response to user selection of a certain funeral product, if the server is controlling the images then images may be read from local cache database to speed display of page)*; and thereafter displaying the image on the local computer *(the local computer displays the selected images)*.

Claim 45:

Barrot teaches an apparatus, comprising:
a memory resident on a local computer *(paragraph 0063)*;
a database resident within the memory *(paragraph 0063)*, the database storing at least one image associated with at least one of a plurality of funeral items *(the user views many funeral products and selects products the user wishes to include in the funeral, page 4 paragraphs 0054-0057, paragraphs 0138-0150 and figures 15-20)*; and
a program executing on the local computer *(paragraph 0063)* and configured to access the database to retrieve the image *(paragraph 0063 and browser stores images in a cache database)*, and initiate a display of the image on the local computer in response to a request from a remote network server *(paragraphs 0054, 0063, 0068, 0069, and 0071 describes alternative embodiments that stores some files*

on local computer and performs some processes on remote network server, paragraphs 0088 and 00137 describe inventory update that tells the local computer which images stored on the local computer may not be displayed due to out of stock items 00137 which is a form of request to have certain images displayed, if the server is controlling the images then images may be read from local cache database to speed display of page).

Claim 46:

This claim is similar to claim 45 with the exception this claim adds the following features: at least one overlay image associated with a correlated funeral item; and the program further superimposing the overlay image over the base image in response to a request from a remote network server. Barrot replaces one web page image of a funeral product with another web page image of another funeral product as the user views the funeral products. Applicant does not claim how the superimposing works thus the claim is being given the broadest reasonable meaning of having the overlay image completely overlay the base image making the base image not visible which is clearly taught by Barrot.

Claim 47:

Barrot teaches an apparatus, comprising:
a memory resident on a network server (*paragraphs 0054 and 0063 describes a network memory*);
a program resident within the memory (*the website is a program*) and in communication with a local computer (*paragraphs 0054 and 0063*),

the program configured to direct the local computer to display an image associated with a funeral item in response to a request initiated by the local computer (*in one embodiment of Barrot's system the web browser on the local computer sends a request from the user to view a page to the network server, the network server sends the requested web page, the local computer is directed by the sent web page to display the images associated with the web page*) .

Claim 50:

Barrot teaches a program product, comprising:
a program executing on the local computer (*the web browser is executed on the local computer, paragraphs 0054 and 0063*)
and configured to access a database storing images associated with a plurality of funeral products, and to retrieve and initiate a display of a funeral item image on the local computer in response to a request from a remote network (*in one embodiment of Barrot's system the web browser on the local computer sends a request from the user to view a page to the network server, the network server sends the requested web page, the local computer is directed by the sent web page to display the images associated with the web page*);
and a signal bearing medium bearing the program (*the memory storing the program is a signal bearing medium and the network is signal bearing medium during the transmission of the program*).

Claim 51:

Barrot teaches the program product of claim 50, wherein the signal bearing medium includes at least one of a recordable medium (*the memory is a recordable medium since to have the program in memory the memory was recordable*) and a transmission medium (*the network is a transmission medium*).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-21, 23-44, 48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrot et al., U.S. Patent Application Publication No. 2002/00464046, and the article describing the Rocky Mountain Monument & Vault's monument design software described in the article Funeral Home Online--Funeral Home Goes High Tech from the Utah Prime Time July 2000.

As described above Barrot describes at page 4 paragraphs 0054-0057 a computer that is either standalone or networked to perform funeral advising and allows the user to select various funeral products for inclusion in the funeral and allows the user to view images of each of the funeral products.

Each of independent claims 1, 23, and 48 claim forming a composite image by superimposing the overlay image over the base image.

Barrot replaces one web page image with another web page image as the user views the funeral products but it does not teach forming a composite image by superimposing the overlay image over the base image.

However, it should be appreciated that figure 5a shows the same viewing room but with different funeral products, however, these web pages are complete files not requiring compositing by superimposing a base image with an overlay image by the local computer. However, it should be noted that HTML web pages are formed by HTML code that makes references to image files causing the system to composite the images into the web page seen on the computer screen. However, these commands may or may not overlay one image onto another image.

The Funeral Home Online--Funeral Home Goes High Tech article describes forming a composite image by overlaying a base image of a headstone with text and images.

A detailed analysis of independent claims 1, 23, and 48 follows.

Claim 1:

Barrot teaches a computer implemented method for guiding a funeral planning session, comprising:

displaying a base image of a funeral item (*Barrot displays many funeral items so the user may select a funeral item, many of the items such as caskets may be customized which allows the user to select another web page to view the images of a*

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feature of the casket that may be selected for addition to the casket, thus, the initial view of a casket such as shown in figure 4d is a base image);

superimposing an overlay image of a correlated item over the base image in response to a user selecting the correlated item (when the user selects an area such as 77 in figure 4d the web page showing the image of that item replace the web page shown in figure 4d).

Barrot does not teach *superimposing in such a manner as to form a composite image.*

The article describing headstone designing superimposes an overlay image onto the base image of the headstone.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Barrot so the selected item for inclusion with the funeral item will be composited onto the funeral item so the user will be able to view the customized funeral item because the article in paragraph 15 describes giving the customers a better way of viewing the items and in paragraph 21 describes how this type of personalization helps in the healing process.

Claim 23:

Barrot teaches an apparatus, comprising:

a memory (web pages are stored in memory, see paragraphs 0052-0055);

a database resident in the memory (the web pages are stored in a database, paragraph 0055 describes a SQL server which is a database server),

the database storing images associated with a plurality of funeral products (*the web pages store image of funeral products*);

and a program configured to access the database and retrieve a base image associated with one of the plurality of funeral items (*the web browser accesses the database to retrieve images of the funeral items*), display the base image (*the web browser displays the funeral item*), and

superimpose an overlay image of a correlated item of the plurality of funeral items over the base image (*when the user selects an area such as 77 in figure 4d the web page showing the image of that item replace the web page shown in figure 4d*).

Barrot does not teach *superimposing in such a manner as to form a composite image*.

The article describing headstone designing superimposes an overlay image onto the base image of the headstone.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Barrot so the selected item for inclusion with the funeral item will be composited onto the funeral item so the user will be able to view the customized funeral item because the article in paragraph 15 describes giving the customers a better way of viewing the items and in paragraph 21 describes how this type of personalization helps in the healing process.

Claim 48:

This claim is a program product claim version of claim 23 and is rejected for the reasons given for claim 23, additionally, in one embodiment of Barrot's system the web browser on the local computer sends a request from the user to view a page to the network server, the network server, sends the requested web page, the local computer is directed by the sent web page to display the images associated with the web page. The memory storing the program is a signal bearing medium and the network is signal bearing medium during the transmission of the program.

Claim 49:

Barrot teaches the program product of claim 48, wherein the signal bearing medium includes at least one of a recordable medium (*the memory is a recordable medium since to have the program in memory the memory was recordable*) and a transmission medium (*the network is a transmission medium*).

Dependent claims 2-21 and 24-44 will now be analyzed.

Claims 2 and 24:

Barrot at least teaches storing the base image and the overlay image.

Claim 3:

Barrot's web browser retrieves the image from the above described database, see claim 23.

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Claim 4:

See figure 5a. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Barrot so the selected item for inclusion in the viewing room will be composited into the virtual viewing room so the user will be able to view the customized viewing room because the article in paragraph 15 describes giving the customers a better way of viewing the items and in paragraph 21 describes how this type of personalization helps in the healing process.

Claims 5 and 26:

See paragraphs 0054 and 0063

Claims 6 and 27:

During inventory updating the web page images may be updated by the server

This claim is broad.

Claims 7 and 28:

As the use selects funeral items the selections are stored in the database.

Claims 8 and 29:

The web pages of the funeral items include image data, see figure 4d.

Claims 9 and 30:

The family advisor software provides services such as ceremonies and products such as caskets.

Claims 10 and 31:

Prices are displayed in the web page, see paragraph 0081, thus prices were entered into the database.

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Claims 11 and 32:

Prices are displayed in the web page, see paragraph 0081, thus prices were retrieved into the database.

Claims 12 and 33:

Themes are discussed with regard to personal expressions feature of the software see paragraph 0084 and figure 5a. Themes links the user to related products.

Claims 13 and 34:

Various themes are listed in paragraph 0084 which at least some correspond to the claimed themes such as hobby and religion.

Claims 14-15 and 35-36:

See paragraph 0084.

Claims 16 and 43 :

See paragraph 0080.

Claims 17 and 44:

See paragraph 0072, 0081, 0082 and 0089 for examples of urn, casket, corners and panels.

Claim 18:

See paragraph 0020.

Claims 19 and 40:

See paragraph 0049.

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Claims 20 and 41:

This is a broad claim and is met by many aspects of Barrot's family advisor software such as the page shown in figure 4b.

Claims 21 and 42:

See figure 4d which shows at least three areas of the casket which can be customized.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Barrot so the selected item for inclusion with the casket will be composited onto the image of the casket so the user will be able to view the customized casket because the article in paragraph 15 describes giving the customers a better way of viewing the items and in paragraph 21 describes how this type of personalization helps in the healing process.

Claim 25:

See paragraph 0063

Claim 37:

The casket is associated with the base image for the reasons given in claim 23.

Claim 38:

The selected funeral item is associated with the overlay image for the reasons given in claim 23.

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8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fant et al., U.S. Patent No. 6,223,404, describes a computerized process for generating from an art work or pictorial image a customized design to be placed on the external surface of a casket.

Miyamoto, Japanese publication no. 2000-320189 describes a computerized process for printing a picture to be attached to a gravestone. The process combines any arbitrary combination such as character, photograph and pictures onto the printing.

Glater, UK Patent Application No. 2315712A, describes generating a computerized recreation of a photograph via programming a computer to laser etch print out an exact hologramatical image a hard based material and then place this on a gravestone.

The article by Mike Reddy and Graham P. Fletcher titled An Adaptive Mechanism for Web Browser Cache Management describes web browser caches and describes if the space is available then all files should be stored in the local cache.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A. Brier whose telephone number is (703) 305-4723. The examiner can normally be reached on M-F from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached at (703) 305-4713).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9306 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.



Jeffery A Brier
Primary Examiner
Art Unit 2672